

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

NICHOLAS TYLER,

Plaintiff,

vs.

CAPSTONE LOGISTICS, LLC,

Defendant.

Cause No. 1:21-cv-02137-JMS-TAB

***AMENDED COMPLAINT for DAMAGES
and REQUEST FOR TRIAL BY JURY***

I. Introduction.

Plaintiff, Nicholas Tyler, (hereinafter “Tyler”) is pursuing claims under the Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e, et seq.) (hereinafter called “Title VII”) and under 42 U.S.C. §1981 (hereinafter called “§1981”) against his employer, Defendant, Capstone Logistics, LLC (hereinafter called “Capstone”) to remedy his wrongful and discriminatory treatment in his employment, which occurred beginning on, or about, in May of 2020.

II. Factual Allegations.

1. Tyler is an African-American male and a resident of Indianapolis, Marion County, Indiana.

2. Capstone operates certain freight management, warehouse and distribution center support, last mile delivery, supply chain analytics and optimization, and other services throughout various states, including Indiana, and has its principal place of business in Peachtree Corners, Georgia.

3. Tyler works for Capstone at its facility located at 7025 English Avenue, Indianapolis, Indiana 46201.

4. Tyler was denied a promotion by Capstone to a management position with his employer for which he was fully qualified but was assigned the duties and responsibilities of the position denied him, in addition to those of his regular position, for more than one year. The position was ultimately filled by hiring another individual.

5. Tyler was not paid an increased salary after having been assigned this work, as were Non-African-American employees.

6. Tyler was not paid any salary above his regular salary for his assigned position and he was required to do the work of both positions.

7. Tyler was the victim of disparate treatment and also suffered a disparate impact in his employment.

8. The actual motivation for the actions by Capstone was the intent on the part of certain supervisory and/or management personnel of Capstone to discriminate against him on the basis of his race.

9. The effect of not paying Tyler for his work as an interim management employee was that Tyler also the victim of a disparate impact in his employment.

10. As a consequence of Tyler's discriminatory treatment, he has suffered damages.

III. Jurisdiction and Venue.

11. This Court has jurisdiction over Tyler's claims as they raise questions of federal law and are for claims of violation of Federal civil rights' protections. See 28 U.S.C. §1331 and 28 U.S.C. §1343.

12. Venue is proper in this Court pursuant to 28 U.S.C. §1391 because the

unlawful conduct alleged herein was committed in Marion County, Indiana.

IV. Parties.

13. Tyler is currently domiciled in, and is a citizen and resident of, Indianapolis, Marion County, Indiana.

14. Capstone employed Tyler to work for them at a facility it operated located in Indianapolis, Marion County, Indiana.

V. Administrative Procedures.

15. Tyler has complied with all of the administrative procedures which are conditions precedent to the filing of this lawsuit. With respect to his Title VII claim Tyler has received his Notice of Right to Sue from the Equal Employment Opportunity Commission, which was dated May 26, 2021.

VI. Statement of Claims.

16. Tyler incorporates herein by reference paragraphs 1 through 15 above.

17. Capstone knowingly, intentionally, and effectively, discriminated against Tyler in violation of Title VII and §1981.

18. Capstone's violations of Tyler's Title VII rights included, but are not limited to, the following:

- a. Discriminating against Tyler because of his race by virtue of his disparate treatment and/or suffering a disparate impact from that given to non-African-American employees;
- b. Denying Tyler a promotion in his position of employment, while assigning him the work of the denied position on, while not paying him for that work on or about May of 2020. In so doing, Capstone discriminated against Tyler by giving him disparate treatment and/or causing him to suffer a disparate

impact which were not accorded to non-African American employees.

c. In this case, Capstone's decision to deny Tyler a promotion and to deny paying him for doing the work of the denied position violates Title VII's prohibition against discrimination in employment based on race.

19. Capstone's §1981 violations of Tyler's civil rights included, but are not limited to, the following:

a. Intentionally and/or effectively discriminating against Tyler because of his race by virtue of his treatment and/or his being impacted different from that given to non-African-American employees;

b. Denying Tyler a promotion in his position of employment, while assigning him the work of the denied position on, while not paying him for that work beginning on or about May of 2020. In so doing, Capstone discriminated against Tyler by intentionally giving him treatment different from that accorded to non-African-American employees, and/or causing him to suffer a disparate impact, on the basis of his race.

20. During the entire period of his employment, Tyler has performed his assigned job duties well and has met his employer's reasonable expectations.

21. As a direct and proximate result of Capstone's conduct, Tyler has sustained substantial economic losses, including past and future wage losses, and other economic benefits. Tyler has also sustained the loss of financial stability, peace of mind and future security, and has suffered embarrassment, humiliation, career damage, mental and emotional distress, discomfort, and Capstone acted oppressively, maliciously, fraudulently and outrageously toward Tyler, with conscious disregard for Tyler's known rights and with the intention of causing unjust and cruel hardship to Tyler. In acting in a deliberate and

intentional manner, Capstone intended to, and/or effectively did, injure and annoy Tyler.

22. As a result of Capstone's discriminatory practices, Tyler is seeking all available compensatory damages, punitive damages, and any and all legal and equitable relief available to him under Title VII and §1981.

23. As a result of Capstone's discriminatory practices, Tyler has found it necessary to retain the services of an attorney and is therefore entitled to his reasonable attorney's fees in this matter.

VII. Prayer for Relief.

WHEREFORE, Plaintiff, Nicholas Tyler, requests that the Court enter judgment against Defendant, Capstone Logistics LLC, and issue all available relief to him, including, but not limited to, the following:

1. All damages available under Title VII and §1981;
2. All compensatory damages;
3. All punitive damages;
4. Any and all available equitable relief;
5. All back pay and benefits;
6. All reasonable attorney's fees and expenses;
7. Costs;
8. Prejudgment interest, if available; and
9. Any and all other relief that is just and proper in the premises.

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Request for Trial by Jury.

Plaintiff, Nicholas Tyler, by his counsel, hereby requests a trial by jury on all issues which may be tried to a jury.

By s/ Robert F. Hunt
Robert F. Hunt, (#7889-84)

CERTIFICATE OF SERVICE

I hereby certify that on, or about February ___, 2022, a copy of the foregoing *Plaintiff's Amended Complaint* was filed electronically. Service of this filing will be made on all ECF-registered counsel of record by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/Robert F. Hunt.
Robert F. Hunt